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SIPDIS

SENSITIVE

STATE FOR AC/CB, NP/CBM, L/ACV, IO/S
SECDEF FOR OSD/ISP
JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (GOLDMAN)
NSC FOR CHUPA
WINPAC FOR FOLEY

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [ETTC](#) [AORC](#) [RS](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): SCENESETTER FOR
34TH SESSION OF THE OPCW EXECUTIVE COUNCIL, 23-26 SEPTEMBER

REF: A. A: STATE 259237 (NOTAL)

[B](#). B: STATE 245962

This is CWC-92-03.

(U) GUIDANCE REQUESTS/RECOMMENDATIONS -- see paras. 13, 14
and-----

Summary

[1](#)1. (SBU) There will be one major topic for discussion at EC-34 (budget), a number of key issues of importance to the U.S. on which there may be substantial discussion (U.S. destruction deadline extension, Article VII) and one question that will be difficult to avoid discussing (the ILO decision on former DG Bustani). The U.S. is favorably placed on the budget discussion: we are seeking an increase of no more than 7.5% while most delegations are in the 5-6% range or lower. Reaching agreement on a specific number will be quite difficult, and may well not be achieved in this EC. The extent to which the U.S. request for an extension of the 45% destruction deadline will be an issue will depend much on our presentation to the other delegations (particularly on the question of the 100% deadline), and whether we will have secured Russian agreement to dampen discussion on this matter. On the Article VII action plan, the U.K. facilitator is working hard to achieve U.S. goals, but due to objections from NAM countries, there will not be a draft Plan of Action finalized for consideration by this EC. Finally, while we may minimize formal Council discussion of the ILO decision on former DG Bustani, it will be the elephant in the corner for EC-34, and there will be repeated informal queries on how the U.S. wants to respond to the decision. End Summary.

Draft Annotated Agenda Item Three:
Statement by the Director General

[1](#)2. (U) Del expects the DG's statement will focus on priorities and his efforts to promote administrative reform.

Draft Annotated Agenda Item Four:
Status of Implementation of the
Convention

---- 2002 Verification Implementation Report ----

[1](#)3. (U) Delegations held no consultations on the 2002 supplemental Verification Implementation Report since mid-July.

---- Report on the project to assist States Parties in identifying new declarable facilities under Article VI of the Convention ----

[1](#)4. (U) The Council is requested to further consider the DG's report on this issue (EC-33/S/4 dated 19 June 2003).

---- Planned increase in the Article VI Inspection Programme for 2003 ----

[1](#)5. (U) The Council is requested to note the DG's Note on this topic (EC-34/DG.11, dated 4 Sept. 2003).

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Draft Annotated Agenda Item Five:
Recommendation for the Conference of the States
Parties concerning plan of action regarding the
Implementation of Article VII obligations
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[1](#)6. (U) The Council is requested to prepare a recommendation

regarding the implementation of Article VII obligations, with the objective of fostering the full and effective implementation of the Convention by all States Parties to enable CSP-8 to develop a plan of action. Consultations on this issue began in early August and a draft Plan of Action is under discussion and includes a timetable for full compliance by CSP-10 and consideration by the tenth Conference of remedial measures if necessary. Several delegations are opposed to the concept of deadlines, a few are reluctant to agree to the tenth CSP, and several of the more radical NAM are opposed to consideration of any reference to Art. XII, including a watered-down reference to remedial measures. Given this opposition, the Facilitator (Matthews/UK) indicated he will schedule an additional round of consultations post-EC-34 and will strive to achieve consensus during subsequent consultations ahead of CSP-8.

Draft Annotated Agenda Item Six:
Draft Report of the Organization for 2002

17. (U) One consultation took place on the Draft Report of the OPCW and several technical corrections were made. An attempt was made to change the statement that all States Parties had met the 40% destruction deadline for CWPPF's. The Technical Secretariat (TS) argued against this change in order to be consistent with the VIR. However, the statement remains technically incorrect at this point because Bosnia and Herzegovina have yet to begin destruction activities. Del has not received a revised copy of the document.

Draft Annotated Agenda Item Seven:
Report of the Executive Council on the
Performance of its activities

18. (U) During informal consultations, Del suggested that a reference to the extension of deadlines for destruction of Category 1 chemical weapons stockpiles should note that the CSP had not approved Russia's request for extensions of the 45% and 100% deadlines. The TS proposed to cross-reference the OPCW report to clarify that point, and Russia did not object so long as the EC report did not introduce any new language on the issue. On Facility Agreements, the ROK requested that the report note that the EC had considered a draft facility agreement with the ROK, as well as with Belgium.

19. (U) Iran sought to include references to Review Conference mandates under confidentiality issues and matters concerning Article XI as "Matters under consideration by the Council," and requested a reference to the Review Conference deliberations on Article XI. Both Iran and India proposed adding references to ISO as a matter under consideration by the EC. The TS explained the rules of procedure covering what activities are included in the list, and it is not clear whether those proposals will be accepted.

Draft Annotated Agenda Item Eight:
Extension of deadlines for destruction
of Category 1 chemical weapons stockpiles

---- Russian Deadline Extension Request ----

110. (U) The local Russian delegation has no information about the status of the Russian Federation Request. Del has received multiple indications that a trip by a limited number of EC experts and the EC Chairman is planned for the week of October 6th to Russian demil sites at Kambarka, Schuch'ye, and Gorniy. The Russian Federation may envisage substantive discussion of this issue only after such a trip and thus only after the upcoming Council session.

---- A State Party Deadline Extension Request ----

111. (U) Del anticipates that A State Party will provide a comprehensive presentation during the destruction informals on 22 September on its request for an extension of the 45% destruction deadline. Based on such a presentation, Del believes it should be possible to join consensus on a recommendation to the Conference to grant this request.

---- U.S. Deadline Extension Request ----

112. (SBU) Del has encountered no overt opposition to the U.S. proposal, as outlined in our information paper (Ref B) and Decision Document, but there has been keen interest and a distinct discomfort, most notably but not exclusively from the German delegation, as to how the U.S. intends to explain/address the issue of creating a 45% deadline which exceeds the present 100% deadline. Del believes that this question is going to be foremost in the minds of many other

delegations and anticipates that we will be asked repeatedly, if only informally "in the hallway," to explain. Del also does not rule out the possibility of a request for an explanation to the WEOG.

13. (SBU) Talking points included in the background paper on this issue are helpful in elaborating U.S. methodology in deciding to pursue this course of action, but do little to address concerns about whether a 45% deadline that exceeds the 100% deadline is consistent with the Convention or is even logical. Recommendation: Del believes Washington should give strong consideration to pursuing an extension in principle of the U.S. 100% deadline. The U.S. demil program enjoys widespread admiration among delegations (based on thorough and transparent briefings offered in the past about the program and its progress), and Del is frankly concerned that this one element of our request will needlessly create concern over a request that would otherwise be taken in stride.

14. (SBU) Recommendation: We note that draft guidance permits the possibility of accepting an extension in principle of the final deadline as a fallback measure, but believe that the process would be much smoother and our request much more positively received if an extension in principle were part of our initial proposal.

Draft Annotated Agenda Item Nine:
Detailed plans for the destruction of
chemical weapons

---- Aberdeen ----

15. (U) Del believes, based on recent conversations with the Russian delegation, this document and its counterpart Facility Agreement will continue to be held hostage by the Russians pending resolution of their concerns over the definition of end point of destruction.

Draft Annotated Agenda Item Ten:
Detailed plans for the destruction or
Conversion and verification of chemical
weapons production facilities

---- Russian Combined Plans for Conversion
or Destruction ----

16. (U) The Russian delegation is unaware of the status of these documents. Del will explore with the Russians their response to U.S.-requested changes during the session and respond accordingly.

Draft Annotated Agenda Item Eleven:
Conversion of chemical weapons
Production facilities for purposes
not prohibited under the convention

---- Russian Conversion Requests ----

17. (U) Del has received no information from the local Russian delegates with respect to this issue. Russian delegation indicated that further information would only become available with the arrival of their delegation from Moscow.

---- U.S. Conversion Requests ----

18. (U) The substance of this request has been agreed and the TS is, at this time, awaiting our response to their informal provision of the DG note announcing this TA. As reported via e-mail, the TS intends to append the actual TA to the DG's note.

Draft Annotated Agenda Item Twelve:
Facility Agreements

---- Belgian facility agreement ----

19. (U) Del understands that the Belgians intend to defer consideration of this FA due to ongoing discussions over its content, presumably with the TS and presumably as a result of U.S.-proposed changes adopted by Belgium.

---- U.S. facility agreement ----

20. (U) See para 15 above (Under Combined Plans)

---- Republic of Korea facility agreement ----

121. (U) Del understands that the Republic of Korea intends to defer consideration of this FA due to ongoing discussions over its content, presumably with the TS and presumably as a result of U.S.-proposed changes adopted by Republic of Korea.

Draft Annotated Agenda Item Thirteen:
Chemical Industry Issues

122. (U) The Council will consider a decision regarding "Captive Use," circulated by the facilitator (Ruddock/UK) on 8 Sep 03. The decision applies to Schedule 2 and 3 chemicals, an element considered essential by the U.S. during consultations. The decision provides for an effective date of 1 Jan 05 for Schedule 2 chemicals and 1 Jan 06 for Schedule 3 chemicals to accommodate the Russian need to substantially change its domestic legal requirements for declarations. Currently, Russia does not declare Schedule 3 chemicals unless they are shipped off-site as final products. This decision merely clarifies that once a chemical is produced above applicable concentration and quantity thresholds, regardless of subsequent physical handling activities, the production must be declared. Recommends: The decision meets U.S. substantive criteria for a decision and Del recommends joining consensus.

123. (U) The EC is likely to be presented with a decision text regarding "Clarification of Declarations." Although this facilitation technically falls under the purview of the Legal Cluster, it routinely meets during the Industry Cluster sessions. The facilitator (Williams/US) continues to work with a few States Parties (India, South Africa, Iran) who still have concerns with the timelines in the text, but believes consensus may be achieved prior to the EC's commencement. The decision codifies a political commitment by SPs to facilitate TS clarification requests regarding SP declarations within 60 days. For those issues arising from ambiguous declarations (e.g., incomplete declarations or clerical/administrative errors) which affect the inspectability of a plant site, if no response is received by the SP to the clarification request, the TS would inform the EC and consider the plant site inspectable until such time that an answer, including a partial answer, is provided. The decision also codifies SP support for the TS to continue its efforts to engage SPs in releasing confidential information to facilitate clarification requests when an accredited representative is either not present in The Hague, does not attend regular meetings of the OPCW, or lacks secure means of communicating with their capitals other than diplomatic pouch.

Draft Annotated Agenda Item Fourteen:
Fostering of international Cooperation
for Peaceful Purposes in the Field of
Chemical Activities

124. (U) One consultation was held on 12 September. Delegations were unable to agree on which draft decision document to begin discussions. Western delegations preferred a Canada/Sweden document which nearly achieved consensus during the Sixth Conference; Iran proposed beginning discussion using a draft it put forward just prior to the RevCon. At issue is fundamental disagreement regarding trade restrictions and the impact of the Australia Group on full and effective implementation of Article XI. No further consultations are scheduled before EC-34, and no draft decision will be tabled for discussion.

Draft Annotated Agenda Item Fifteen:
Assistance and Protection Against
Chemical Weapons

125. (U) Consultations are scheduled for 17 September to discuss a UK draft declaration format for national protective programs. As this is the first consultation held in months, no issues under Article X are ripe for decision. Del expects the facilitator to present an oral report on the status of discussions.

Draft Annotated Agenda Item Sixteen:
2002 OIO Report

126. (U) Brazil is no longer seeking to amend the text of the OIO report. Instead, it provided a number of questions to the DG on various administrative issues, seeking to cast doubt about present practices. Brazil has yet to comment on the responses provided by the DG, and Del understands Brazil is currently seeking to make a statement at the EC on the OIO

report, possibly requesting that it be noted by the EC as a national view.

Draft Annotated Agenda Item Seventeen:
2002 External Auditor's Report

127. (U) Consultations were held on 1 September and most interventions centered on the same specific issues of concern to the U.S. (Smartstream, materiality, accounting issues, procurement issues, and frauds and losses). The facilitator plans to present an oral report to the EC highlighting areas of concern and more specifically calling on the TS to prepare a report on the remaining work, cost estimation and likely timeframe of fully implementing the Smartstream administrative software. Del informally spoke with the Director of Administration regarding the U.S. concern on the 2001 cash surplus. However this issue was not raised during formal consultations.

Draft Annotated Agenda Item Eighteen:
Implementation of the Recommendations of
the External Auditor and OIO

128. (U) The Council is requested to consider the subject reports. Del understands that Washington has no objections to the reports.

Draft Annotated Agenda Item Nineteen:
Draft OPCW Programme and Budget for 2004
and all items pertaining to this budget

----- 2004 Budget -----

129. (U) Informal budget consultations resulted in agreement on the broad outlines of the 2004 budget, but clearly could not resolve wide variations on a possible budget increase. On the overall net increase, most delegations' positions fell in a band between 5.0% maximum increase (Belgium) and 7.5% (U.S., per Ref A), with Japan and South Africa holding out for zero nominal growth and the UK arguing for 6.8%. Stability Pact countries led by France argued for no more than a 5.5% increase (most of this being non-discretionary). The facilitator (Beerwerth/FRG) suggested that 6.1% or 6.2% were at the middle of that range of the delegations' figures and speculated that final consensus might emerge at around that level, but there was little support for the proposal. The facilitator commented that the TS would have considerable discretion in preparing a revised budget proposal for EC-34 drawing on this guidance.

130. (U) The facilitator reached consensus on reducing the draft 2004 budget in a number of the areas that participating delegations had explored. None of the proposed cuts affects the core activities of verification or ICA. The recommended reductions include funding for consultants, per capita staff turnover costs, common services, information systems, inspector training, non-staff costs of destruction verification, the exchange rate, and P staff salaries. The facilitator noted that some of these savings were also recommended in the XIV ABAF report. The facilitator and TS estimated that these reductions would total roughly 1.7 million Euros.

----- Draft Medium-term Plan -----

131. (U) In a Sept. 16 informal consultation, Del noted that the draft plan is in Washington for consideration and that we leave open the right to provide comments in the future. Though most capitals are still reviewing the document, the MTP has been well received at OPCW, with delegates commenting that it is more concise and readable than last year's version. One delegation pointed to uncertainties about on-call inspectors, future rates of destruction, and spending tracks on ICA to question some key assumptions included in the MTP.

Draft Annotated Agenda Item Twenty:
Proposed Amendments to the OPCW
Financial Regulations

132. (U) Amendments to OPCW financial regulations recommended by ABAF and the TS have been pending for two years. Informal consultations the week before EC-34 sought to identify non-controversial amendments that could find consensus in the EC. The facilitator cited 12 amendments recommended by both ABAF and the TS that he believed might obtain quick agreement. Some of the proposed changes clarified existing practice or reflected necessary changes.

Others include proposals for the DG, in exceptional circumstances, to submit supplementary budgetary proposals to the CSP through the EC; for the EC, rather than the CSP, to allow the DG to transfer appropriated funds between programs within a budget chapter; for the DG, with the prior concurrence of the EC, to enter into commitments for future financial years; for the DG to authorize the write-off of losses of funds, stores, equipment and other assets other than arrears of assessed contributions and the payment of Article IV and V verification costs not exceeding 500 Euros per item or 10,000 Euros in a year, without the prior approval of the EC; for recognizing a monitoring function for the OIO; and other proposals. Other, more controversial proposals are to be postponed until after the CSP.

Draft Annotated Agenda Item Twenty:
Proposed Amendments to the OPCW
Financial Regulations

133. (U) Del understands that Washington wishes to have the Council request the TS revisit the proposed amendments in light of ABAF comments and produce an updated set of proposals.

Draft Annotated Agenda Item Twenty-One:
Financial Issues

----- Income and Expenditure Situation of the OPCW -----

134. (U) The Council is requested to note the DG's reports on this matter (EC-34/DG.6, dated 24 July 2003, and EC-34/DG.7, dated 18 August 2003).

----- Regularization of contractual agreements -----

135. (U) The Council is requested to consider the DG's note on this issue and approve the draft decision (EC-34/DEC/CRP.3, dated 28 August 2003).

----- Working Capital Fund -----

136. (U) The Council is requested to note the DG's report for submission to the CSP (EC-34/DG.12, dated 12 Sept. 2003).

----- Report of the 14th Session of the ABAF -----

137. (U) The Council is requested to consider the subject report (AFAB-14/1, dated 23 June 2003).

----- Composition of the ABAF -----

138. (U) The Council is requested to approve appointments to ABAF, as noted in the annotated agenda.

Draft Annotated Agenda Item Twenty-Two:
Dates for Regular Sessions of the EC

139. (U) Proposed dates for 2004 EC sessions are March 23-26, July 6-9, Oct. 12-15 and Dec. 14-17.

Draft Annotated Agenda Item Twenty-Three:
Any Other Business

140. (U) This would be the formal point on the agenda at which delegations would be able to raise the Bustani issue.

-----Adjustment of the Director-General's Salary -----

141. (U) Council is requested to approve the draft decision on this matter (EC-34/DEC/CRP.1, dated 29 July 2003).

----- Credentials of Representatives of the Council -----

142. (U) The DG's report on this issue has not yet been distributed.

----- Request to Reclassify Two Posts -----

143. (U) Del understands that Washington has questions regarding this proposal, and is working with the TS to ensure that the requested reclassification has been thoroughly reviewed and that the posts are currently graded incorrectly.

144. (U) Ito sends.